Minority Report from Committee on Memorial to the Supreme and Superior Courts *in re* Admissions to the Bar

To the Members of the Pennsylvania Bar Association :

GENTLEMEN :—This minority report is presented in the knowledge that the Bar of Pennsylvania always has been and remains to-day an independent body, bound by no false ideas of expediency, tact or diplomacy, its actions never controlled by fear or favor, and of the further conclusive fact, as to the matter under consideration, that the Bar Association desires the best possible system of admissions established in Pennsylvania for the continued welfare of the profession. Uniformity throughout the Commonwealth in this important matter cannot be attained unless the system created by the Supreme Court is one which will inspire confidence and be endorsed in the various judicial districts.

While concurring in some of the statements of the majority report, I am unable to sign the same for several reasons: (1) It abounds in fulsome and transparent compliments to individual members of the Bar Committee and to the State Board of Law Examiners, the members of which are a part of the committee, and all of which, if deserved, are unnecessary. (2) It places the Supreme Court in antagonism to the wishes of the Bar Association, which is contrary to the true state of the case. (3) It contains a number of statements of fact which I cannot endorse, and illogical deductions therefrom.

The Supreme Court has endeavored in every way within its power to meet the wishes of the Bar, yet a subtle attempt is made to shift the responsibility to the Court for the objectionable features of the new rules, and for which the members of the State Board of Law Examiners drafting the rules and recommending their adoption by the Court are mainly responsible. It was but natural that the Supreme

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Court should assume that the recommendations of the State Board represented the consensus of opinion at the Bar.

A few points only of the majority report will be adverted to:

(*a*) The inference, based upon inquiry, that the new rules were not hastily adopted, but were the result of protracted consultation between the Court and the State Board, is hardly justified by the facts. It is not doubted but that there was consultation between one or more members of the Board and one or more members of the Court, but my information is that the presentation of the matter to the Court as a whole was of a most perfunctory character and that the Court approved the report of the State Board in the natural belief that it represented the wishes of the Bar of the Commonwealth. I have the statement in writing by a Justice of the Court that but a brief period elapsed between the presentation of the recommendations of the State Board and their approval by the Court.

(*b*) The majority report expresses the belief that the Supreme Court was "unwilling to appoint the State Board at all unless the appointments should be accepted by" those who would be unable to discharge the duties of the office unaided, and that the creation of a subsidiary board to do the work was a condition precedent to the establishment of the new system. Aside from the manifest absurdity of this declaration and the false position in which it places the Supreme Court, it is refuted by the fact that the State Board was appointed in May, 1902, five months before the recommendation for the creation of a subsidiary board was submitted (October, 1902,) *by the State Board, then actually in existence.* The plain facts are that when the Supreme Court created the board, the gentlemen named were expected, in the interests of the cause, to make the necessary sacrifices of time and effort until the new system was started and in working order. This, after the appointments had been accepted, they were unwilling to do and the dual board proposition resulted.

(*c*) The hearsay statement of the majority report "that the Supreme Court regarded the new rules as having gone into effect and operation on January 1, 1903, and that it was a mistake to assume that the Court intended to suspend the operation of the rules until a future time," is sufficiently answered by the following order of the Supreme Court:

"**And Now,** to wit, June 2, 1903, the Court being advised that the State Board of Law Examiners is fully organized and prepared to issue certificates of qualifications for admission to the Bar of this Court, the relaxation of Rule II heretofore conceded is herewith rescinded, and Rule II will be enforced in all future applications."

It will be observed that none of the other rules were enforceable until the State Board had organized.

These matters, however, are of minor importance to the two vital points in which the new rules are defective. These are:

I. The essential duties of examiners, which the State Board was appointed to discharge, as in other states, are delegated to assistants, selected by the State Board, and who are but remotely responsible to the Supreme Court. (For objections in detail, see pl. XXI, p. 17 of annexed blue pamphlet.)

II. Holders of academic diplomas, evidencing a liberal education, are compelled to submit themselves to examinations in the most elementary branches, the *minutia* of which is soon forgotten, before being permitted to be registered as students at law. (For objections in detail, see pl. XIV, p. 14, of annexed blue pamphlet, and pl. XII at p. 13.)

Another practical objection:

III. Hardships are imposed on candidates from sixty-two counties by compelling them to journey to one of five counties for examination, whereas it would be a simple matter to follow the method of holding simultaneous examinations in each county, as recommended by the Bar Memorial (1901 Rep., p. 119). (For details, see pl. XX, p. 17 of annexed blue pamphlet.)

Where questions of principle with reference to the system as such are involved, suggestions of expediency should not be all-controlling. The following is submitted as an outline for resolutions, the adoption of which would probably be appropriate at this time and operate as a full discharge to the profession of the duty of the Association in the premises:

Resolved, that the Pennsylvania Bar Association records its high sense of appreciation of the act of the Supreme Court of the Commonwealth in establishing a State Board of Law Examiners, as prayed in the Memorial from the Association.

Resolved, that the Pennsylvania Bar Association disapproves of the recommendation by the State Board of a rule empowering the said Board to appoint assistants to perform the essential duties of examiners, and records its belief that the State Board of Law Examiners should discharge the essential duties of the office.

Resolved, that the Association disapproves of the recommendation of the State Board of Law Examiners of a rule requiring holders of academic diplomas, evidencing a liberal education, to submit themselves to the rigors of an examination in elementary subjects before being permitted to be registered as students at law, and records its conviction that holders of such diplomas should be permitted to be registered without further examination as to their educational qualifications.

Resolved, that the Bar Association respectfully requests that the Supreme Court reconsider the recommendations of the State Board of Law Examiners with reference to the above points.

Resolved, that the Secretary of the Association be directed to present a certified copy of these resolutions to the Supreme Court when it sits in Philadelphia on July 8, 1903.

All of which is respectfully submitted,

LUCIEN H. ALEXANDER,
Secretary Bar Memorial Committee.

29 June, 1903.